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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE:

[REDACTED]

Office: PHILADELPHIA, PA

Date:

DEC 23 2008

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i).

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Philadelphia, PA. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed as the underlying waiver application is moot.

The applicant is a native and citizen of Jamaica who was found to be inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for procuring admission into the United States by fraud. The applicant is married to a U.S. citizen, [REDACTED]. She seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i), in order to remain in the United States and obtain lawful permanent resident status on the basis of a Form I-130, Petition for Alien Relative, filed by her spouse on her behalf.

The District Director determined that the applicant had failed to establish that her bar to admission would impose extreme hardship on a qualifying relative, her United States citizen spouse, and denied the Form I-601, Application for Waiver of Grounds of Inadmissibility, accordingly. *Decision of District Director*, dated June 14, 2005.

The status of an alien may be adjusted by the Secretary, Department of Homeland Security, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and an immigrant visa is immediately available to him/her at the time his/her application is filed. *See* Section 245(a) of the Act, 8 U.S.C. § 1255(a). On June 14, 2005, the District Director denied the Form I-130, Petition for Alien Relative, filed by the applicant's spouse on her behalf. Therefore, the applicant does not have an approved immigrant petition underlying her Form I-485, Application to Adjust Status.

The viability of the Form I-601, Application for Waiver of Grounds of Inadmissibility, is dependent on an adjustment of status application that is, in turn, based on an approved Form I-130, Petition for Alien Relative. In the absence of an underlying approved Form I-130, Petition for Alien Relative, the Form I-601, Application for Waiver of Grounds of Inadmissibility, is moot. Therefore, pursuit of the instant matter is moot and the appeal must be dismissed.

ORDER: The appeal is dismissed.